IN THE HIGH COURT OF JUDICTURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Rani Dan Sharma. Versus State of Rajasthan & ors.

S.B. Civil Writ Petition No. 1363/2007

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Date of Order: May 25, 2007

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. Mukesh Rajpurohit, for the petitioner.
Mr. Rameshwar Dave, Deputy Govt. Advocate, for respondents.
Mr. P.C. Sharma, for the respondent No.4.

BY THE COURT:

By the instant writ petition under Article 226 of the Constitution of India, the petitioner has challenged the order Annx.4 dated 22-2-2007, by which the transfer order passed in favour of the petitioner came to be cancelled. The name of the petitioner finds mention at Serial No.106 in the impugned order Annx.4.

Learned counsel for the petitioner submits that the operation of the impugned order Annx.4 came to be stayed by this Court vide order dated 15-3-2007 passed by this Court qua the petitioner and it was directed that till next date, the petitioner shall not be relieved from the Government Ayurvedic Hospital, Masuria, Jodhpur in pursuance of the order Annx.4

dated 22-2-2007 and shall continue to work at that place.

After passing the interim order, the respondent Director, Ayurvedic Department, Ajmer, vide Order dated 10-5-2007, cancelled the order Annx.4 dated 22-2-2005 qua the petitioner. Thus, nothing survives in the writ petition as the order impugned Annx.4 has been cancelled. This fact has not been disputed by the respondent-State. The communication dated 10-5-2007 has been placed on record.

Learned counsel for the respondent No.4 submits that no order has been passed with respect to respondent No.4 by the State while cancelling the transfer of the petitioner vide order dated 10-5-2007. It is open for the respondent No.4 to move the appropriate authority for obtaining an appropriate direction as in the instant writ petition, the controversy involved is limited to the extent whether the order Annx.4 is valid and legal, which has been cancelled by the respondent authority itself. In the circumstances, therefore, nothing survives in the writ petition and it has become infructuous.

Two applications, being IA No.2038/2007 and IA No.2039/2007 have been filed by the respondent No.4 seeking to take action against the petitioner for abuse of process of the Court and an action under Section 340 Cr.P.C. Having heard the learned counsel for the parties on the applications, I do not find any merit in the applications and there is no ground for

proceeding against the petitioner for abuse of process of the Court or proceeding against him under Section 340 Cr.P.C. In this view of the matter, both the applications are dismissed.

Consequently, the writ petition stands disposed of. There shall be no order as to costs.

(H.R. PANWAR), J.

mcs